

**DEFENDANTS' DESIGNATION OF OF RANDALL HERVEY**

(Counter-Designations in italicized text)

June 10, 2005

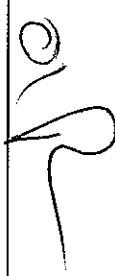
Page/Line Cite	Plaintiffs' Objections and Counters (include specific page and line numbers of material objected to and objection(s))	Defendants' Response
	<p>ALL: Plaintiffs object to all testimony by Hervey. Witness's testimony lacks foundation, assumes facts not in evidence, calls for speculation, hearsay or double hearsay, and is irrelevant, inflammatory and prejudicial under FRE 403. There is no legitimate non-hearsay purpose for this testimony and no state of mind exception should apply. Hervey is mentioned only once in the Davis deposition and merely to identify him by position (Davis Depo., 72:22-23) and is not mentioned in the Davis diary at all. Though Hervey was a member of the Crisis Management Team, he was off rotation commencing the events of May 26<sup>th</sup>, 1998, and had returned to the US when that team made the decision to call in the GSF and therefore did not contribute to that decision - in fact he claims to have been taken by surprise by the military strike (Hervey Depo., 123:1-12, 123:25-124:5). In sum, there is no evidence that the cited - to testimony influenced the CNL Crisis Management Team in its decision to send in the GSF. Therefore, the "state of mind" of Hervey, or the evidence of events up through May 26<sup>th</sup> which defendants seek to introduce through double and triple hearsay through Hervey, never communicated to Davis who recommended to CNL management</p>	<p>As stated in defendants' Opposition to Plaintiffs' Motion to Exclude Randall Hervey and John Stapleton (Dkt. # 2161), Hervey's testimony goes to CNL's notice and to state of mind. Hervey learned information through Stapleton regarding the Parabe hostage situation and relayed that information to the Crisis Management Team, of which he was a member.</p>

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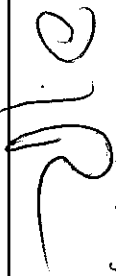
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	the decision to send in the GSF on May 28, is irrelevant and highly prejudicial. The particular testimony at issue is double hearsay or possibly worse, as Mr. Hervey was not on the platform. Moreover, the individuals from whom he collected his information were also not on the Parabe platform, but on Meren.	
	<u>This objection will hereafter be referred to as Plaintiffs' Hervey Crisis Management Team State of Mind Objection.</u>	
7:3-5		
7:8-11		
7:23-8:6		
11:21-12:25		

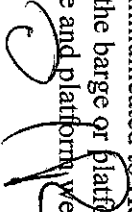
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16:9-22		
21:14-18		
21:24-22:4		
22:17-21	Hearsay. FRE 801-803 	Not offered for the truth of the matter but for state of mind and for notice. Hervey was on the Crisis Management Team and would relay information to the Team and to Scott Davis.
22:25-23:3		
23:5-11		
23:12-14		

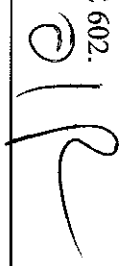
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24:11-25:11		
25:22-24		
27:18-22		
27:23-28:6		
28:21-29:6		
29:13-19	Hearsay. Hervey reporting second hand the number of Ilaje who boarded the barge. 	Not offered for the truth of the matter but for state of mind and for notice. Hervey was on the Crisis Management Team and would relay information to the Team and to Scott Davis.
30:13-16		

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30:19-25	Non-responsive to question: "What did you do?"	
31:3-13	Double hearsay communicated to Hervey through other individuals not on the barge or platform, but rather on Meren, that people on the barge and platform were scared, etc (See 31:14-18 and 32:18-19). 	
32:7-19		
32:21		
33:10-34:11		
35:1-35:8 starting with "You mentioned"		

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45:6 (starting at "I think")-15	Speculation. FRE 602. 	
46:2-16 starting with "did you"		
62:11-13		
65:12-15		
65:16-24		
67:11-24		
67:25-68:9		



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68:10-16		
68:20-69:18		
69:19-23		
69:24-70:4		
70:5-7 starting with "you were"		

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70:10-71:17	<p><i>Plaintiffs counter-designate: 138:13-14, 18-23 and 140:4-7, 10-16.</i></p> <p>These designations are only incomplete, confusing, and misleading if read in the order in which they appear in the transcript, as suggested by defendants. Read in the order proposed here, they <u>clarify</u> the extent to which deponent actually knew the state of the people on the barge.</p>	<p>Defendants object that these counter-designations should be read in the order in which they appear in the transcript.</p> <p>138:13-14, 18-23: Incomplete designation, confusing and misleading.</p>
72:6-10		
73:24-74:17	<p>74:9-17: Pure speculation; "My <u>supposition</u> was that they were expecting a helicopter." (The echis is rampant speculation is made clear at 146:30-47 and 149:23-150:2, 5).</p>	<p>Response is based on deponent's understanding of why the helideck was temporarily cleared. See also 136:25-137:5.</p>
74:25-75:13		



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<i>75:14-20</i>		
<i>75:21-76:21</i>		
<i>77:17-25</i>		
<i>82:21-24</i>		
<i>85:10-16</i>		
<i>85:23-86:6</i>		
<i>90:10-13</i>		
<i>90:23-91:14 starting with "Was there"</i>		

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92:1-20 starting with "What was"		
92:22-25		
94:21-23		
95:2-19		
105:19-106:2		
106:22-107:5		
108:12-14 starting with "What time"		

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108:17		
108:19-109:2		
109:4-22		
112:12-20		
112:24- 114:17		
114:19-21		
114:23- 115:3		
115:15-24	Incomplete designation. FRE 106.	

*Read  
115:5-14  
also*

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<i>116:12-21</i>		
117:20-22		
117:25-118:2		
<i>128:18</i> ( <i>starting at</i> <i>"I want"</i> )- <i>129:2</i>		
<i>129:8-14</i>		
<i>129:24-130:17</i>	Completeness designation: 130:18-23 	

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141:7 starting with "I'm moving"		
142:7-12		
<i>142:13-18</i>		
156:5-24		